

Merritt, Allen

From: Merritt, Allen
Sent: Wednesday, March 02, 2011 1:38 PM
To: watermanager@cableone.net; 'Pepin Corso-Harris'
Cc: Cooper, Jeff; Jones, Doug; Luke, Tim
Subject: FW: Question about WD37 watermaster being involved with installation of measuring device on District #45 canal

Kevin and Pepin,

Here is the attorney general's opinion regarding these matters.

I agree that there should be adequate measuring devices and headgates on the re-diversions in the District #45 canal; however, to have the watermaster of WD37 refuse delivery because they need repair or installation carries potential liability and goes beyond his authority. WRVID should consult their attorney and deal with this internally.

Allen

From:

From: Homan, John
Sent: Wednesday, March 02, 2011 1:11 PM
To: Merritt, Allen
Cc: Luke, Tim
Subject: RE: Question about WD37 watermaster being involved with installation of measuring device on District #45 canal

Allen,

The attached 1915 document indicates that WRID#45 Canal was initially formed as an irrigation district under Title 43. The irrigation district may rely on the powers described in Title 43 to distribute water within the district. The watermaster's duties are to distribute the public waters among the several ditches. Once that water is diverted into the irrigation district's system the irrigation district, not the watermaster, becomes responsible for ensuing issues involving the measurement or redirection of water. The 2010 resolution is consistent with this approach as it only anticipates diversion from the main source. Water District resolution should not authorize watermasters to take actions not consistent with Idaho Code. Idaho Code Section 42-607 limits the reach of the watermaster to those diversions from the public stream or water supply.

John

From: Merritt, Allen
Sent: Wednesday, March 02, 2011 10:49 AM
To: Homan, John
Cc: Luke, Tim; watermanager@cableone.net; Cooper, Jeff; Jones, Doug
Subject: Question about WD37 watermaster being involved with installation of measuring device on District #45 canal

John,

Kevin Lakey (watermaster of WD37 – Big Wood River) recently sent me a letter to review before sending out..... <<
File: Cover Ranch Hdgt Notice March 1 2011.doc >>

On initial reading of the draft I questioned the ability of the WD37 watermaster to be involved with shutting off delivery of a decreed water right for failure to maintain or install measuring devices on re-diversions within the WRVID #45 canal (locally known as the District #45 canal). I also questioned how the WRVID#45 canal was organized. I thought this might be an internal matter of the WRVID#45 canal.

After discussing these concerns with Kevin Lakey I received a call from Pepin Corso-Harris with the WRVID#45 canal and an e-mail with the attached document describing how the WRVID#45 canal was organized. Apparently the formal name of the WRVID#45 canal is the "Wood River Valley Irrigation District" (WRVID). I believe the #45 is based on the numbering system developed years ago within WD37. (For example the Hiawatha canal is numbered #22)

<< File: #27702_WRVID_CreationOrder1915.pdf >>

I've discussed this with Tim Luke and our reading of this document leads us to believe that the WRVID is a Title 43 Irrigation District.

Pepin indicated that WD37 passed a resolution back in 2008 that allowed for the watermaster to require measuring devices in the WRVID#45 canal. In discussing this with Tim we think that if that were the case the resolution would need to be ongoing. I have reviewed the 2008 resolutions and the recent 2011 resolutions. Item #13 appears similar but I do not interpret that it gives any authority to the watermaster to be involved. Here are the recent resolutions.... << File: 2011 RESOLUTIONS.doc >>

10/25

Could you review this matter and provide an opinion?

Thanks,

2016-07-07

Allen

10/25/16

<< File: 10/25/16

SIDE NOTE.... The District #45 canal serves both decreed right holders within the boundary of what we understand the district to be as well as some decreed right holders for lands further south. The WRVID maintains the canal system delivering these privately held decreed rights. They have a manager or watermaster (Michael Harris who is Pepin's husband). There is some sort of ongoing issue about who can vote for various directors of the district and involves water users that get delivery thru the canal but are outside the present known boundary of the WRVID.

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Notice March ...

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